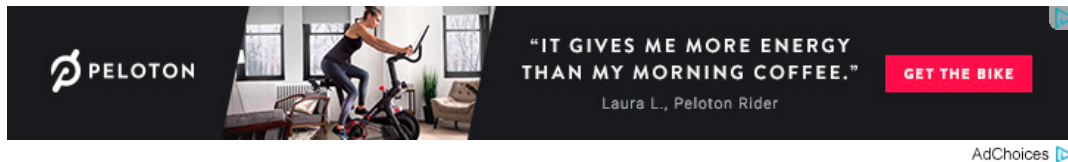


EXHIBIT 3



THE BLOG

Is the U.S. Using Colombia's Prison System as a Black Site? The Story of Kaleil Isaza Tuzman

03/04/2016 08:23 am ET | Updated Mar 05, 2016

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Dan Kovalik Human & Labor Rights Lawyer, Adjunct Professor of International Human Rights Law

“I am in a Kafkaesque situation,” Kaleil explained when he phoned me from his prison in Bogotá, Colombia. “I was in La Picota prison for months, and now they have me in what they call ‘The Bunker’ underneath the offices of the Fiscalía [in English, Prosecutor].” He explains that, since early September 2015, he has been held in a Colombian prison on a U.S. warrant for alleged accounting fraud in connection with a software company he ran until early 2012 called KIT Digital. While Kaleil has pleaded through his lawyers to be extradited to the U.S.— where he is a natural-born citizen and where he would be happy to stand trial to defend himself— due to a byzantine extradition process he remains in jail indefinitely in some of the harshest prison conditions in the world. If he had been arrested in the U.S. he would have surely been out on bail immediately, under his own reconnaissance, as he went through a trial.

As it is, however, Kaleil is in Colombia without the prospect of a habeas corpus petition, bail, a hearing, discovery, depositions, a speedy trial, or any of the other due process rights protections which he would receive in the U.S. and which, by the way, he is still entitled to under the U.S. Constitution, his presence in a foreign country notwithstanding. Instead, he is subject to an arcane administrative process agreed between the U.S. and Colombia (there is no extradition treaty, just a common practice “convention”) which can easily take a year or longer—maybe much longer now that the Colombian Supreme Court chamber tasked with reviewing extradition cases is not convening due to political infighting and lack of a quorum.

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be arrested while traveling on business in Colombia (where he was building a hotel in the coastal resort town of Cartagena), just a few days before he was to return to the U.S. to celebrate the Jewish holiday of Rosh Hashanah with his family. Indeed, his arrest in Colombia—an extraordinary move that under the extradition convention between the U.S. and Colombia is supposed to be reserved for dangerous fugitives—is all the more baffling in light of the fact that by third party accounts Kaleil had personally crossed paths with Preet Bharara, the Manhattan U.S. Attorney who brought the charges against him, at his Harvard College Class Reunion only three months before his arrest in Colombia. This is the same District Attorney who precipitated Kaleil’s “capture” on September 7, 2015 through a “verbal note” (i.e., a phone call) to the Colombian Attorney General’s Office.

Quite reasonably, a number of legal experts have speculated that with a weak case, U.S. officials wanted to have Kaleil arrested in Colombia, knowing that the extradition process would be long and tortuous. This would give the prosecutors maximum leverage over Kaleil to possibly wring a confession out of him despite his claims of innocence. Meanwhile, they could also try to obtain a cooperation agreement out of Robin Smyth, KIT Digital’s CFO who was jointly charged with Kaleil. Mr. Smyth was picked up while at home in Australia, though his extradition was suspiciously fast-tracked and Mr. Smyth was in Manhattan within a few weeks of his arrest.

This maneuver (using extradition as a means to subvert legal process and give prosecutors an advantage in building legal cases and extracting cooperation agreements or confessions) is rarely talked about but widely employed by U.S. law enforcement. It is particularly well understood by the DEA and the U.S. Attorney’s Office in the context of U.S.-Colombian extradition cases. Kaleil’s case just happens to shine a harsher light on the practice, given that it appears to be the first case in the history of extradition between the two countries that a U.S. citizen’s extradition has been sought subject to charges unrelated to drug-trafficking, violence or skipping bail.

Basically, the U.S. may be purposefully trying to evade due process standards by having individuals (including U.S. citizens) arrested abroad—where they can get away with having defendants subjected to harsher conditions and exert negotiating leverage without proper judicial protections.

Others have certainly come to this conclusion. Thus, [a recent story](#) in *The Miami Herald* which mentions Kaleil’s case among others, explains:

When Colombia resumed extradition in 1997, the system was designed for powerful drug dons, guerrilla commanders and paramilitary leaders wanted in the U.S. The detainees tended to be extremely dangerous and well connected, necessitating the isolation.

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But lawyers and researchers say the extradition system seems built on the presumption of guilt. Amid the harsh conditions, FBI and Drug Enforcement Agency (DEA) officials often press detainees for information. . . .

“If you’re innocent, you have no routes to give up and no accomplices to name, you don’t have anything,” . . . “And you also probably don’t have a lawyer with teeth that can get you out.”

In addition to the basic denial of due process which one would enjoy in the U.S., individuals like Kaleil must endure prison conditions in Colombia which are much harsher for inmates than they are in the U.S. and often violate international standards on human rights and may even qualify as torture. Colombian prisons such as the infamous “La Picota” (where Kaleil himself was housed for months) [have been universally condemned](#) for their filthiness, lack of basic necessities such as running water, absence of medical care, profound overcrowding, as well as commonplace extortion, rape and assault.

As one commentator has written in [an article](#) aptly titled, “*Colombian Prisons: Hell’s Waiting Room*”:

In Colombian prisons the words Human Rights appear to have no meaning. A prisoner leaves behind his dignity and probably also his health, when he crosses the frontier between his previous life and his future sentence behind bars in one of the country’s prisons.

Both the prisoners and the United Nations have exposed the conditions in which they live: overcrowding, the spread of infections, denial of medical treatment, violence and limited access to water, among other abuses. Mistreatment that sometimes ends with the death or suicide of some of them.

This same article explains that, “Colombian jails are among the most overcrowded and violent in Latin America and accommodate leftist guerrillas alongside their right-wing paramilitary enemies.” For his part, Kaleil himself has been housed in Colombia with accused murderers (including his cellmate in La Picota, a presumed assassin wanted in multiple countries), narco-terrorists, drug traffickers and other violent criminals. This despite the fact that Kaleil is a non-violent defendant with no previous criminal record.

If this were not bad enough, it has recently been reported that scores of dismembered and quartered bodies (numbering over 100) have been found in and around Colombian prisons in Bogotá. As the *Toronto Sun* [reported last month](#), “Remains of prisoners, visitors and others were thrown in the drainage system.”

Yet Kaleil is not alone in languishing in a Colombian prison while awaiting extradition to the U.S. He is one of [around 150 such “extraditables”](#) who are



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has been accepted by the Inter-American Commission on Human Rights (IAHC) based in Washington, DC.

Kaleil is pleading innocent to the charges against him, but whether or not Kaleil or others like him are ultimately found guilty of the crimes they are charged with is irrelevant. Their inhumane treatment as well as the complete denial to them of any fair legal process (which may result in false confessions out of desperation) cannot be excused and should not be allowed. One commenter, who himself invested in Kaleil's company and whose investment did not turn out so well, [states this case well](#): "I believed in Kaleil and invested in KIT digital as well -when I heard about the charges I was a little angry. I am absolutely incensed, however, to see him being treated this way. He should be brought to the United States and charged, but it is a violation of human rights to have him held in a violent prison in Colombia while awaiting his day in court. This is not who we are and the DOJ, who is supposed to be upholding the law and our principals, should be ashamed."

Meanwhile, my phone interview with Kaleil was rudely interrupted when his "time was up" and the phone was forcibly hung up by prison guards. "They've been listening to what I was telling you, and they don't like it. I'll try to call you again...", " Kaleil tells me as the phone disconnects. This was weeks ago, and I haven't heard back from him. Yesterday, I learned that he was moved again internally and his contact with the outside world has been further restricted

To sign a petition urging that Kaleil be treated humanely and given the process due him, go to: [Safety for Kaleil](#)

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